

OMB NO. 1820-0030
Expires: 06/30/2012

**ANNUAL STATE APPLICATION UNDER PART B OF THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004
FOR FEDERAL FISCAL YEAR 2012**

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS
Washington, DC 20202-2600**

Section I**A. Submission Statement for Part B of IDEA**

Please select 1 or 2 below. Check 3 if appropriate.

- ☒ 1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
- ☐ 2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2013. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

- ☐ 3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

1. Conditional Approval Related to Assurances in Section II.A:

- ☐ a. Section II.A provides documentation of completion of all issues identified in the FFY 2011 conditional approval letter.
- ☐ b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2011 conditional approval letter.

2. Conditional Approval Related to Other Issues:

- ☐ a. The State previously submitted documentation of completion of all issues identified in the FFY 2011 conditional approval letter.
- ☐ b. The State is attaching documentation of completion of all issues identified in the FFY 2011 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- ☐ c. The State has not completed all issues identified in the FFY 2011 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

Check and enter date(s) as applicable		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR

Check and enter date(s) as applicable		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		§§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§ 300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and

Check and enter date(s) as applicable		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(b)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.

Check and enter date(s) as applicable		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C.

Check and enter date(s) as applicable		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. (Note: Check either "23b.1" or "23b.2" whichever applies.
X		<p>23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to:</p> <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State Educational Agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State Educational Agency is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i> , is on file with the Secretary of Education. With respect to the <i>Certification Regarding Lobbying</i> , the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR 300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

I certify that the State of Indiana can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2013. (34 CFR §76.104)

I, the undersigned authorized official of the

Indiana Department of Education,

(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2012 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State:

Nicole Norvell, Director of Special Education

Signature:

Nicole Norvell

Date:

March 5, 2012

Section III

Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act - 20 U.S.C. 1411(e)(5); 34 CFR §300.171

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the 2012 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).¹ The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR §300.704)

The Indiana Department of Education (IDOE) obtained input from local educational agencies (LEAs) regarding the use of these funds through discussions at meetings of the State Advisory Council on the Education of Children with Disabilities (SAC). LEA representatives are members of this council as well as persons with disabilities and parents of students with disabilities. In addition to the SAC meetings, the director of special education at the IDOE meets monthly with the executive committee of the Indiana Council of Administrators in Special Education (ICASE) where input has been obtained.

The Excel Interactive Spreadsheet for FFY 2012 has not yet been disseminated by OSEP. The FFY2011 spreadsheet with an estimated allocation for FFY2012 is attached.

¹ Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Section IV

State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR §300.199)

Overview:

Per the requirement above, a summary of provisions in Indiana's special education rules and regulations (found at Title 511 in the Indiana Administrative Code (IAC) and commonly referred to as Article 7) that go beyond the language required within the Individuals with Disabilities Education Improvement Act of 2004 (IDEA '04). Also included will be an explanation as to areas where our regulations provide clarification on general education laws and how they pertain to our students with exceptional learning needs and concludes with a section which describes what direction Article 7 took where IDEA '04 had optional language for a state educational agency (SEA) to choose to implement.

Where Article 7 goes beyond IDEA '04

1. State Funding of Excess Cost-

To the extent that state funds are appropriated, the SEA is authorized, under IC § 20-35-6-2, to provide indirect financial support to local educational agencies (LEAs) by paring the excess costs of educating students whose educational needs require intensive special education and related services that are beyond both the LEA's continuum of services and the services available through other public funding sources, including Medicaid.

2. Explanation of a Free Appropriate Public Education (FAPE) to Parentally Placed Nonpublic School Students-

Because every student has a right to be offered a FAPE, Article 7 requires serving school corporations, before evaluating nonpublic school students who do not live in the corporation's boundaries, to explain the concept of FAPE to the student's parent. The parent may, after this explanation, choose to have the evaluation conducted by either the resident school corporation or the serving school corporation.

3. Special Education Services Available to All Nonpublic School Students-

Students with disabilities enrolled in nonpublic schools by their parents have no individual entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school. However, Article 7 requires that all eligible students in

nonpublic schools be offered some level of special education services because public agencies receive state Additional Pupil Count (APC) funds for these students.

4. Homebound or Alternative Setting Services-

When a student is receiving special education instruction in the home or in an alternative setting, the student's Case Conference Committee (CCC) shall convene at least every 60 instructional days to review the IEP. The type, length, frequency, and duration of the special education and related services shall be determined by the CCC.

Where Article 7 Provides Clarification on the Implementation of Rules or How General Education Laws Impact Students with Exceptional Learning Needs.

1. Written Notice after a Request for an Evaluation-

Article 7 deletes the former requirement that LEAs hold personal meetings with parents to discuss the educational evaluation. Instead, when a parent requests an evaluation, an LEA has 10 instructional days to provide the parent with written notice explaining why the LEA is conducting or refusing to conduct the evaluation. If the LEA is proposing to conduct the evaluation, it must explain the evaluation procedures and provide the format for which informed parental consent is provided.

2. IQ Tests-

Article 7 only requires a cognitive assessment if the following exceptionality categories are suspected: cognitive disability, multiple disabilities, and traumatic brain injury. However, the multidisciplinary team can use its professional judgment to decide that a cognitive assessment will be conducted when other exceptionality categories are suspected (e.g., Autism Spectrum Disorder, emotional disability, or other health impairment) in order to rule out a cognitive disability.

3. Definition of "Assessment" and "Academic Achievement"-

Article 7 contains a definition of the term "assessment." This definition explains that assessments can be norm-referenced, criterion referenced, and other types of procedures (such as informal tests, interviews, and observations). This definition will give the public agencies a broader means together and interpret information about a student's cognitive, academic, social, emotional, behavioral, or functional performance. The term "academic achievement" is also defined to mean a student's performance in relation to the continuum of the Indiana academic standards, including the foundations to the standards. This may include performance on norm-reference, criterion-references, and other achievement measures.

4. Assessments of Functional Skills or Adaptive Behavior-

Multidisciplinary teams are allowed to choose whether to conduct an assessment of functional skills or adaptive behavior assessment.

5. Educational Evaluations and Medical Records-

Article 7 requires medical information for three exceptionality categories (blind or low vision, deaf or hard of hearing, and deaf-blind). The category developmental delay requires a vision and hearing screening, but this could be done by public agency personnel. Other medical record requirements are defined as to whether the medical information is educationally relevant. This revised language creates flexibility for LEAs. If the medical information is available and educationally relevant, it should be considered by the multidisciplinary team. However if the information is not available, the multidisciplinary team will not be precluded from proceeding with the educational evaluation.

6. Emergency Preparedness Plans-

Each LEA, when developing written emergency preparedness plans in accordance with state rule (511 IAC 6.1-2-2.5), shall include provisions for warning and evacuating students whose disabilities require special warning or evacuation procedures. Special warning and evacuation procedures shall:

1. Address individual needs of students;
2. Be reviewed on an annual and as needed basis; and
3. Be implemented during tornado (shelter) preparedness drills and fire drills as required by state rule (511 IAC 6.1-2-3).

7. Medication Administration-

IC § 34-30-14: Under IDEA '04, public agencies are prohibited from requiring a parent to obtain a prescription for medication for a student as a condition for attending school, receiving an educational evaluation, or receiving special education and related services. Article 7 contains this provision and other state law requirements pertaining to the administration of medication.

8. Manifestation Determinations in Case Conference Committee (CCC) Meetings-

After a student who is eligible for special education has been suspended for more than 10 consecutive days, or 10 cumulative days resulting in a pattern that constitutes a disciplinary change of placement, the LEA must determine whether the student's conduct is manifestation of the student's disability. Article 7 requires the manifestation determination to take place in a CCC meeting for two logical reason: (1) the public agency and the parent may not be able to agree on which persons constitute the relevant members of the CCC and (2) the CCC has to immediately convene following the manifestation determination to make decision related to the determination.

9. Teacher of Record-

Each student who is eligible for special education and related services must have a teacher of record identified. The teacher of record may be the teacher of service and must be appropriately licensed to work with the student.

10. Bifurcated Written Notice-

No later than five days prior to an initial CCC meeting, the public agency must provide to the parent written notice of the following:

1. A description and overall findings of each evaluation, procedure, assessment, record, or report the public agency used as a basis for any proposed action;
2. A description of action that may be proposed by the public agency; and
3. An explanation of why the public agency may propose an action.

Article 7 Language Selected When IDEA '04 Provided Options

1. Transfer of Educational Records-

IDEA '04 has an optional provision that allows the SEA to adopt a policy requiring schools to include in the educational record of a student, a statement of any current or previous disciplinary action that has been taken against the student. The State Advisory Council voted not to include the optional provision in the rewrite of Article 7. Accordingly, when a student with a disability transfers to a new school, the only information regarding discipline the previous school is required to forward to the new school are suspension/expulsions records.

2. Educational Evaluations to Determine Eligibility for Special Education-

Article 7 formerly required an LEA to pursue mediation and/or due process if a parent refuses to consent to an educational evaluation. This entire section was deleted from Article 7 because under IDEA '04, a public agency may, but is not required to, pursue an initial educational evaluation of a student by utilizing mediation or requesting due process.

3. Meeting to Explain Educational Evaluations and Copy of Educational Evaluation Report-

Article 7 allows a parent or an emancipated student to request a meeting to have the results of an educational evaluation explained to the parent/student. This meeting must take place no less than five instructional days prior to the first case conference committee (CCC) meeting. If a parent has not requested a meeting to discuss the evaluation results, the parent may obtain a copy of the educational evaluation report within five instructional days before the CCC is scheduled to meet. Article 7 does not require a separate eligibility meeting as found in IDEA '04, therefore it is important for the parent to have an opportunity for the time to absorb the report before being asked to determine eligibility and create the initial IEP.

4. Reevaluations-

Under IDEA '04, a reevaluation may occur not more than once a year, unless the parent and the public agency agree otherwise. However, Article 7 only enforces this restriction on reevaluations that are conducted for the purpose of reestablishing eligibility.

5. Additional Option for Parents When There is a Dispute Regarding a Proposed IEP-

Under IDEA '04, an LEA must provide written notice to a parent a reasonable time before it proposes or refuses to initiate or change the identification or educational placement of a student or the provision of FAPE to the student. After written notice is

provided to a parent, IDEA '04 gives the parent the right to challenge the action proposed or refused by the public agency by requesting mediation and/or a due process hearing. Article 7 offers parents another option. Under this option, parents can request a meeting with an official of the LEA who has the authority to facilitate the disagreement between the parent and the LEA.

6. Complaints Filed Against Local Education Agencies-

When a complaint is filed against an LEA, the LEA has an opportunity to respond to the complaint. The LEA can either submit a proposal to resolve the complaint, or it can agree to voluntarily engage in mediation if a parent filed the complaint. Because of this new provision, the SEA complaint timeline was changed to a 40 day calendar day timeline to give the LEA time to respond to the complaint and still permit the SEA to meet the federally-mandated 60 calendar day timeline as well as maintain a Request for Reconsideration provision.

7. Insufficiency of Requests for Due Process Hearings-

After a party files a request for a due process hearing, IDEA '04 gives the opposing party 15 calendar days to allege that the request for a hearing is insufficient. There is no requirement under IDEA '04 that a party identify how a hearing request is insufficient. However, in order to streamline due process hearings, Article 7 requires a party to identify how the hearing request is insufficient.